

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Waiver of)	
Implementation Deadline)	
for Fiber Special Construction)	
Utah Education and Telehealth Network)	CC Docket No. 02-06
(BEN 150246))	CC Docket No. 13-184
)	
Schools and Libraries Universal Service)	
Support Mechanism)	

**Request for Waiver of
Implementation Deadline Extension Limits for Funding Year 2016
RE: FCC Form 471**

I. INTRODUCTION AND SUMMARY

The Utah Education and Telehealth Network (UETN) has been successfully participating in the E-rate program since its inception and has leveraged E-rate with state funding to create one of the most efficient and functional statewide education broadband networks in the nation.

In July 2016, based on the rules established in the 2014 E-rate Modernization Orders, UETN sought funding for a rural leased-lit fiber construction project by a private sector telecommunication provider (Strata Networks) into Daggett County--one of the most rural and remote areas of Utah with communities that remain unserved with scalable fiber-based services. Due to a lengthy review process by USAC and questions about cost allocation and eligibility about the submitted fiber construction application, USAC issued a denial of the original funding request in September 2017. While review of that funding request was pending, USAC issued

general advice to applicants with fiber construction projects applied for in Funding Year 2016 but not yet approved as of April 2017, indicating that such applicants should file construction deadline extensions before June 30, 2017. UETN timely filed such an extension request and was granted a conditional one-year deadline extension approval by USAC on the Daggett County project in May, 2017.¹ Under the Extension Decision, the deadline for project completion was set on or before June 30, 2018, subject to funding approval. The Extension Decision states, “If your special construction funding request is denied, your Extension Request will no longer be applicable”. Working with Strata Networks, the FCC, and USAC, UETN was able to work through the outstanding issues, and subsequent to our appeal of the original denial, USAC issued a Revised Funding Commitment Decision Letter on December 27th, 2017, with a “Service Delivery Deadline” of September 30, 2018, which is later than the date set forth in the Extension Decision.² Even assuming the later deadline of the RFCDL applies, that deadline allows only nine months for construction of a project that requires eighteen months to complete, assuming all goes well.

The fiber construction for this project to the schools in Daggett County must traverse the Uintah Mountain Range with elevations reaching over 8,500 feet. **Please see the photographs in Exhibit C.** The annual construction season for the route is very short, normally only lasting from May through September when the snow has melted has thawed. About 40% of the route requires rock excavation, and the movement and use of heavy equipment and machinery needed for that excavation compounds the difficulties associated with construction. Material costs are forecasted to increase substantially in the second quarter of 2018 (two years after the initial

¹ *Administrator’s Decision on Request for an Extension of Time to Complete Special Construction and Light Fiber Services – Funding Year 2016* (May 5, 2017), attached hereto as Exhibit A (referred to herein as “Extension Decision”).

² *E-Rate Productivity Center Revised Funding Commitment Decision Letter for 150246—Utah Education and Telehealth Network* (December 27, 2017), attached hereto as Exhibit B (referred to herein as the “RFCDL”).

proposal), which means that additional delay with respect to the funding decision, which impacts Strata Networks' ability to make commitments regarding materials purchases, jeopardizes the vendor's ability perform the contract under its original terms.

USAC has informed UETN, after several outreach attempts by UETN, that in order to obtain the necessary construction deadline extension approval, UETN must obtain a waiver of the rules from the FCC, thus we file this petition for waiver of the Funding Year 2016 deadline extension limits with the FCC.

II. Request

The Utah Education and Telehealth Network (UETN) respectfully requests that the FCC grant UETN a waiver of the Funding Year 2016 construction deadlines (under both the Extension Decision and the RFCDL), in order to complete the leased lit-fiber project with Strata Networks for Daggett County. Granting this waiver would help to serve the public interest and to achieve the goals of the E-rate Modernization Orders by bringing high speed broadband to unserved rural areas. Due to the challenging conditions and terrain where this construction will take place, UETN and Strata Networks respectfully request a completion deadline extension for the project of September 30, 2020 with a commensurate invoice deadline of January 28, 2021.

Respectfully submitted,

Sabrina Scott

Utah State E-rate Coordinator
Utah Education and Telehealth Network
101 Wasatch Dr.
Salt Lake City, UT 84112
p: 801.581.3019
e: sabrina.scott@utah.edu

Dated: February 21, 2018

EXHIBIT A:

*Administrator's Decision on Request for an Extension of Time to Complete Special Construction
and Light Fiber Services – Funding Year 2016
May 5, 2017*

Administrator's Decision on Request for an Extension of Time to Complete Special Construction and Light Fiber Services – Funding Year 2016

May 5, 2017

Sabrina Scott
Utah Education and Telehealth Network
101 Wasatch Drive
Salt Lake City, UT 84112

Re: Applicant Name:	Utah Education and Telehealth Network fka Utah Education Network
Billed Entity Number:	150246
Form 471 Application Number:	161059087
Funding Request Number(s):	1699137400
Your Correspondence Dated:	April 21, 2017

Dear Sabrina Scott:

The Universal Service Administrative Company (USAC) has completed its evaluation of your Request for Extension of Time to Complete Special Construction and Light Fiber Services for Funding Year (FY) 2016 ("Extension Request") for the above-referenced funding application number. Specifically, your request indicated that the special construction was unavoidably delayed because you have not yet received a funding commitment from USAC for your special construction funding request. You have certified that, as a result, you will be unable to complete the special construction and light fiber (or use other technology employed by a self-provisioned network) by the June 30, 2017 deadline. Based on your request and provided information, USAC has approved your Extension Request, contingent upon the issuance of a Funding Commitment Decision Letter (FCDL) approving your special construction funding request (and any related funding requests). You will also receive a Revised Funding Commitment Decision Letter (RFCDL) confirming that your deadline to complete the FY 2016 special construction and light the fiber or use the self-provisioned fiber has been extended from June 30, 2017 to June 30, 2018. If your special construction funding request is denied, your Extension Request will no longer be applicable

Explanation-

The *Second E-rate Modernization Order* requires that special construction for leased dark fiber or self-provisioned networks must be completed in time for the associated fiber to be lit (or for other technology used in a self-provisioned network to be used) by the end

of the funding year, or for FY 2016, by June 30, 2017.¹ In addition, applicants seeking support for leased lit fiber services must complete any related special construction by June 30, 2017.² Applicants may receive up to a one-year extension to complete the special construction and use the fiber if they can demonstrate that construction was unavoidably delayed due to weather or other reasons.³ To request an extension of time to complete the special construction services, applicants must provide an explanation as to why the construction was unavoidably delayed. If it is because the applicant has not yet received an FCDL from USAC, the applicant must provide information confirming that the FCDL has not been issued and that this has prevented the applicant from being able to complete special construction in time to light the fiber or use the self-provisioned network by June 30, 2017 (i.e., the applicant has not started special construction because it has not received a funding commitment). If these requirements are met, the applicant may receive an extension of time for one additional year to complete the special construction services.

USAC has determined that you met these requirements and is approving your Extension Request. After you receive the FCDL approving the funding request, you will also receive a RFCDL indicating June 30, 2018 as the deadline to complete special construction and light the fiber or use the self-provisioned fiber. Please note that while this Extension Request has been approved, your funding commitment for, and any disbursement of, E-rate funds remains contingent upon compliance with E-rate program rules and the terms set forth in the RFCDL. In the event that your special construction funding request is denied or cancelled, this Extension Request will no longer be applicable.

If you have any questions regarding this extension or your special construction funding request, please let us know. We thank you for your continued support, patience and cooperation during the review process.

Universal Service Administrative Company

¹ *Modernizing the E-rate Program for Schools and Libraries*, WC Docket No 13-184, Second Report and Order and Order on Reconsideration, 29 FCC Rcd 15538, 15552, 15558, paras. 38, 49 (2014) (“*Second E-rate Modernization Order*”).

² Because applicants must use recurring services for which E-rate discounts have been committed within the funding year for which the discounts are sought, 47 C.F.R. § 54.507(d)(1), applicants must complete any special construction necessary to deliver recurring leased lit fiber services by June 30 of each year.

³ See *Second E-rate Modernization Order*, 29 FCC Rcd. at 15552, 15558, paras. 37, 49.

EXHIBIT B:

*E-Rate Productivity Center Revised Funding Commitment Decision Letter for 150246—
Utah Education and Telehealth Network
December 27, 2017*



E-Rate Productivity Center Revised Funding Commitment Decision Letter for 150246 - Utah Education and Telehealth Network

Thank you for participating in the Schools and Libraries Program for Funding Year 2016. This letter is your notification that we have completed our review of the post-commitment requests submitted by you or your service provider, which can include appeals, service substitutions, SPIN changes, FCC Form 486 reviews, and/or FCC Form 500 reviews.

There are two files attached to this notification, both of which provide important information. The Excel file provides the funding decision for each FRN included in your post-commitment requests, and lists any changes USAC made to the FRNs. The second file contains information about your appeals rights, and other important program reminders. An explanation of the fields in the RFCDL is available in the EPC section of our website.

NEXT STEPS

- If you disagree with USAC's decision, review the attached pdf to determine how to appeal.
- If the FCC Form 486 has not already been submitted, use the information in this notification to file one in EPC now.
- Work with your service providers to determine who will be invoicing USAC. If you have paid in full for services already delivered and are seeking reimbursement, make sure that you have an FCC Form 498 on file, and then submit your FCC Form 472 (BEAR).

Remember the deadlines for delivery and installation of your services. Your deadlines are listed in column AC of the attached spreadsheet. USAC will not approve an invoice when services are delivered after this date. A request to extend the service delivery deadline is only available in certain circumstances. More information can be found on our website.

The "More Info" link below provides summary data about your requests in this wave. Click on the date/time below to display the entire notification for easy printing. Please keep a copy of this notification for your records.



[RFCDL Supplement](#)
PDF 114 KB



[Post Commit Request - 76586 - Utah Education and Telehealth Network](#)
XLSX 50 KB

#150246 - Utah Educati...

Dec 27, 2017 ☆ 🔒 [Comment](#) [Hide Info](#) ▲

Request Number 76586

Billed Entity Number 150246

Billed Entity Name Utah Education and Telehealth Network

Billed Entity FCC RN 0011938024

Applicant's Form Utah Education and Telehealth Network

Identifier

RFCDL Date Dec 27, 2017

Approved Amount \$2,283,430.01

Exhibit B: Revised Funding Commitment Decision December 27, 2017

BEN	BEN Name	Post-Commitment Request Type	Post-Commitment Application/Request Number	FRN	Post-Commitment Decision (FRN Level)	Post-Commitment Rationale (FRN Level)	Original FRN Funding Decision	Revised FRN Funding Decision	RFCDL Comments (FRN Level)
150246	Utah Education and Telehealth Network	Appeals	76586	1699137400	Partially Approved	<p>Your appeal has brought forward persuasive information that your appeal should be partially approved. The appeal is partially approved for the following reason(s):</p> <p>1) FRN 1699137400 has been modified from \$3,311,820.00 to \$3,216,098.61 to remove the ineligible amount of \$95,721.39 for network equipment cost included as special construction charges.</p> <p>2) Your request to reinstate the State/Tribal Match is denied since you have not provided any new documentation to prove acceptable source of funding for the match program.</p>	Denied	Funded	MR1: The FRN was modified from \$3,311,820.00 one-time cost to \$3,216,098.61 one-time cost to remove the ineligible amount of \$95,721.39 for network equipment cost included as special construction charges and agree with applicant documentation.

FCC Form 471	Service Type	Establishing FCC Form 470	SPIN	Service Provider	Contract Number	Account Number (for SPIN)	Service Start Date	Expiration Date (Original)	Contract Award Date
7	and/or Internet Access	160002962	143002571	Communications	Daggett Fiber		01-Jul-2016	30-Jun-2021	15-Apr-2016

Contract Expiration Date (After Extension Exercised)	Months Of Service In Funding Year	Total Eligible Recurring Charges	Total Eligible One Time Charges	Total Pre-Discount Charges	Discount Rate	Revised Commitment Amount	Invoice Deadline Date	Wave Number	Service Delivery Deadline
	12	\$0.00	\$3,216,098.61	\$3,216,098.61	71.00%	\$2,283,430.01		33	30-Sep-2018

EXHIBIT C



Figures 1 and 2: Pass in Uintah Mountain Range into Daggett County Utah

